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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,335	05/25/2001	Naomi Sugimoto	209045US2	2280

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EXAMINER

PENDEGRASS, JOAN H

ART UNIT	PAPER NUMBER
2852	

DATE MAILED: 01/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/864,335	SUGIMOTO ET AL.	
	Examiner Joan Pendegrass	Art Unit 2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 November 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 14 November 2002 is: a) approved b) disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>12</u> .	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. A ratio involving the “distance between said image carrier and a metering member”, as per amended claim 1, is new matter, not supported by the original disclosure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Nagao (US 5,991,586). Nagao discloses image carrier 1, developer carrier 11,12, main pole N, auxiliary pole S, column 4, lines 1-8, a shortest distance between the image carrier and developer carrier of .35 mm, column 6, line 27, an amount of scooped up developer of 4-6.5 mg/cm², the ratio of which is less than 10, and an electric field with an oscillating component, Figure 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5- 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saijo et al. (US 4,825,241) in view of Shoji et al. (US 5,937,28). Saijo et al. discloses main pole N₁, auxiliary pole S₄, shortest distance between image carrier 100 and developer carrier 5,6 of 0.5 mm, column 5, line 31, shortest distance between image developer carrier and metering member 8 of 0.75 mm, column 5, line 33, and differs from the claimed invention in not disclosing the particular developing bias used. Shoji et al. discloses developing bias wherein an oscillation component occurs at least ten times during the period of time in which a given point of the image carrier is contacted by the magnetic brush because of the frequency of 2.5 kHz to 7 kHz, column 10, lines 17-19, and having an asymmetrical component reducing a period of time during which toner moves toward the image carrier, Figure 2, and column 10, lines 15-17. It would have been obvious to one of ordinary skill in the art to use the bias of Shoji et al. with the magnetic brush developing device of Saijo et al. in order to develop uniform dots, Shoji et al., column 10, lines 15-19.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagao in view of Shoji et al. Nagao, discussed above, differs from the claimed invention in the details of the developing bias. It would have been obvious to one of ordinary skill in the art to use the bias of Shoji et al. with the magnetic brush developing device of Nagao as explained in the rejection above.

Response to Arguments

Applicant's arguments filed November 14, 2002, have been fully considered but they are not persuasive. Applicant's argument that Nagao fails to disclose or suggest any information relating to an electric field is incorrect. It would appear to be so clear from Figure 2 that no further explanation was needed, however, see column 4, lines 19-25. Applicant's argument that the claimed ratio with an AC bias results in an improvement in granularity does not correspond to the language of the claims. 37 CFR 1.111(b). Note the teaching of Shoji et al., column 1, line 65, to column 2, line 13, that the use of an AC bias is conventional with a two-component magnetic brush developing system.

Final Rejection

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joan Pendegrass whose telephone number is 703-308-2796. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur T Grimley can be reached on 703-308-1373. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Joan Pendegrass
Primary Examiner
Art Unit 2852

jhp
January 7, 2003